

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF MASSACHUSETTS

4 THE UNITED STATES OF AMERICA,)
5 ex rel.)
6 JULIE LONG,) Civil Action
7)
8 Plaintiffs) No. 16-12182-FDS
9)
10 vs.)
11)
12 JANSSEN BIOTECH, INC.,)
13 Defendant)

14
15 BEFORE: CHIEF JUDGE F. DENNIS SAYLOR, IV

16
17 STATUS CONFERENCE CONDUCTED BY ZOOM

18
19 John Joseph Moakley United States Courthouse
20 1 Courthouse Way
21 Boston, MA 02210

22
23 January 18, 2022
24 2:07 p.m.

25
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27 Official Court Reporter
28 John Joseph Moakley United States Courthouse
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1 transpired. You might recall that on the eve of our last
2 hearing, the Court had asked that by December 21st, counsel
3 for Janssen provide both relator and the Court indication
4 as to whether or not they were going to rely on the advice
5 of counsel issue, and they submitted a short letter
6 indicating that they are not.

7 Thereafter, right around that time, I should say,
8 Magistrate Kelley had issued an order on a variety of
9 different discovery-related matters and document requests
02:08PM 10 and motions to compel. That motion or I should say that
11 order was then appealed to your Honor by the Janssen
12 defendant.

13 We then had last week a hearing with
14 Magistrate Kelley, and just before the hearing, your Honor
15 had issued an order sending back, I guess denying in part
16 and granting in part that objection to the magistrate's
17 order.

18 At the time of the hearing with Magistrate Kelley,
19 she said that she was going to review everything and take
02:09PM 20 the objection as a matter motion for reconsideration.

21 She heard some additional argument and
22 clarification of some issues and has ordered both parties
23 to respond in briefs to her, the relator by the 28th of
24 January to the motion for reconsideration, and then I
25 believe two weeks later for the Janssen defendants.

1 Also during that conversation at the hearing with
2 Magistrate Kelley, the issues that had come up with your
3 Honor back at our hearing on the 22nd about the position of
4 Janssen's reliance on advise of counsel, and we had
5 indicated that we wanted to brief that issue because of the
6 nature of sort of the sword and shield type of defense and
7 the circuit case law around the country on that issue.

8 Again, we had some in-depth conversations with
9 Magistrate Kelley, and she ordered by the 28th for the
02:10PM 10 parties to submit briefs on that particular issue, which
11 we're in the process of doing.

12 There were also filed a couple of additional
13 motions to compel, which Magistrate Kelley is going to take
14 under advisement, and the last issue since the 22nd hearing
15 with your Honor, we had worked out agreed dates for the
16 depositions of several of Janssen's witnesses as well as a
17 30(b)(6), however, we were informed by Janssen that they
18 have refused to produce any of those witnesses until all of
19 the issues on the motion for reconsideration and the prior
02:11PM 20 order of Magistrate Kelley has been worked out, so
21 basically there is no discovery going on at this point, and
22 we are I would say basically at a standstill until the
23 order on the motion for reconsideration is addressed
24 because of Janssen's position of not producing any
25 witnesses until that point. I believe that's the present

1 status, your Honor.

2 THE COURT: Okay. Mr. Posner.

3 MR. POSNER: Yes, good afternoon, your Honor.

4 Well, one point we would make is our position on the
5 depositions was we were, you know, in light of the breadth
6 of the magistrate's discovery rulings, our position was,
7 well, we're only going to produce these witnesses once, so
8 either we wait until the magistrate rules on the motion for
9 reconsideration, and if there's an appeal to your Honor, we
02:12PM 10 kind of wait to see that sorted out or you agree at the
11 outset that you'll only take their deposition once, so
12 specifically that was our position, but we still think it
13 makes sense to wait out the scope of the discovery from
14 first the magistrate and potentially your Honor if one
15 party takes an appeal from that.

16 It looks like the magistrate has set the final
17 briefing on February 11th. I assume they'll be a hearing
18 after that, and then we'll see where we are.

19 THE COURT: Okay. All right. I think what makes
02:12PM 20 sense from my standpoint is to set a further status for,
21 let's see, ballpark February 20th, thereabouts, about 30
22 days out, a little longer. Matt.

23 THE CLERK: How about Wednesday, February 23rd at
24 3:30?

25 THE COURT: Wednesday, February 23rd at 3:30.

1 We'll try it by Zoom. I may drag my heels getting this
2 thing fixed.

3 MR. POSNER: That's fine with us, thank you.

4 MR. LEOPOLD: Your Honor, did you say 3:30 on the
5 23rd?

6 THE COURT: Yes. Okay. We'll see where we are at
7 that point. Unless there's anything else, thank you, and
8 we'll talk to you in about a month.

9 MR. POSNER: All right, stay well everyone,
02:13PM 10 thank you.

11 (Whereupon, the hearing was adjourned at
12 11:08 p.m.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS) ss.
CITY OF BOSTON)

I do hereby certify that the foregoing transcript,
Pages 1 through 8 inclusive, was recorded by me
stenographically at the time and place aforesaid in Civil
Action No. 16-12182-FDS, THE UNITED STATES OF AMERICA ex rel.
JULIE LONG vs. JANSSEN BIOTECH, INC., and thereafter by me
reduced to typewriting and is a true and accurate record of the
proceedings.

Dated January 20, 2022.

s/s Valerie A. O'Hara

VALERIE A. O'HARA
OFFICIAL COURT REPORTER